

### **Remarks**

Claims 1-24 were pending in the application prior to this amendment. Claims 1-24 were rejected and have been cancelled. New claims 25-47 have been added. In light of the following remarks, Applicant requests allowance of all pending claims.

#### **Claim Rejections – 35 USC § 112**

Regarding claims 1, 8, 17 and 21, the term “virtual circuit” renders the claim vague and indefinite.

Claims 1, 8, 17, and 21 have been cancelled.

#### **Claim Rejections – 35 USC § 102**

Claims 1-3, 7, 8-10, 17-18 and 21-22 are rejected under 35 USC 102(b) as being anticipated by Ma et al. (US Patent No. 5,953,338).

Claims 1-3, 7, 8-10, 17-18 and 21-22 have been cancelled.

Claims 15 and 16 are rejected under 35 USC 102(e) as being anticipated by Bawa et al (US Patent No. 6,697,333 B1).

Claims 15 and 16 have been cancelled.

#### **Claim Rejections – 35 USC § 103**

Claims 4, 11, 19 and 23 are rejected under 35 USC 103(a) as being unpatentable over Ma et al. (US Patent No. 5,953,338) in view of Bawa et al (US Patent No. 6,697,333 B1).

Claims 4, 11, 19 and 23 have been cancelled.

Claims 5, 12, 20 and 24 are rejected under 35 USC 103(a) as being unpatentable over Ma et al. (US Patent No. 5,953,338) in view of Bawa et al (US Patent No. 6,697,333 B1), and in further view of Donaghey et al (US Patent Publication Application #2002/0009088 A1).

Claims 5, 12, 20 and 24 have been cancelled.

Claims 6 and 13 are rejected under 35 USC 103(a) as being unpatentable over Ma et al (US Patent No. 5,953,338) in view of the ATM Forum Technical Committee (“PNNI Addendum for Generic Application Transport Version 1”).

Claims 6 and 13 have been cancelled.

### *New claims*

New claims 25-47 have been added and include features described in the present application at least with reference to FIG. 1 and the associated text that describes a call established across different peer groups 120 and 130. *See* generally pages 9-13, and in particular, page 10, lines 10-12. New claims 25-47 distinguish over the cited art for at least the reasons that follow, and thus should be allowed.

None of the cited references teach at least the features of an apparatus to “inspect a predefined portion of received call setup signaling message for ATM generic transport information elements, and when an ATM generic transportation information element is observed, analyze the observed ATM generic transportation information element for a link utilization value” and to “determine whether a utilization of a local link contained within a peer group of the apparatus corresponds to the link utilization value”

Ma discloses switches that monitor a utilization level of a virtual path, and makes dynamic adjustments to paths according to this monitoring. *See* FIG. 4A, right side caption, also *see* abstract. The switches are not configured to receive and inspect call setup signaling messages for information in a particular format, or to perform the claimed analysis and determination when the particular format is found. Other claimed features are absent from Ma, including features of the new claims that are dependent from claim 25.

Bawa discloses nodes performing load balancing based on cost factors. *See* col. 3, lines 10-15. The nodes are not configured to inspect call setup signaling messages for information in a particular format, or to perform the claimed analysis and determination when the particular format is found. Other claimed features are absent from Bawa, including features of the new claims that are dependent from claim 25.

Donaghey discloses routers that send flood tag packets to each other. *See* FIG. 8. The flood tag packets are distributed in a flooding domain, which is a group of routers synchronized with the common link state information. Since the flood tag packets are exchanged between a group of synchronized routers, the flood tag messages are not sent to or from node initiating calls. Therefore, it is apparent the flood tag packets are not call setup signaling messages, and Donaghey does not disclose inspecting call setup signaling messages. Nor does Donaghey disclose making the claimed analysis and determination based on inspection of call setup

signaling messages. Other claimed features are absent from Donaghey, including features of the new claims that are dependent from claim 25.

The ATM forum document does not disclose the claimed use of generic application transport information elements. Namely, the ATM forum document does not disclose an apparatus configured to receive and inspect call setup signaling messages for information in a particular format, or to perform and the claimed analysis and determination when the particular format is found. Other claimed features are absent from the ATM forum document, including features of the new claims that are dependent from claim 25.

In contrast, claim 25 includes an apparatus operable to “inspect a predefined portion of received call setup signaling message for ATM generic transport information elements, and when an ATM generic transportation information element is observed, analyze the observed ATM generic transportation information element for a link utilization value” and to “determine whether a utilization of a local link contained within a peer group of the apparatus corresponds to the link utilization value”. For at least this reason, claim 25 should be allowed. Claims 26 and 27 are dependent and should be allowed for at least the reason that they include the features of claim 25, amongst other reasons. Claims 28-32 include similar features and should be allowed for at least similar reasons.

Claim 33 includes an apparatus operable to “insert a link utilization limit into a predefined location within the call setup signaling message, the presence of the link utilization limit in the predefined location to trigger a remote node located outside the peer group to control inclusion of the remote target link in the virtual circuit connection according to the link utilization limit.” The routers and switches of Ma, Bawa, Donaghey, and the ATM forum document do not disclose an apparatus to insert a link utilization limit into a predefined location within the call setup signaling message for at least the reasons previously described. Thus, for at least this reason and the reasons previously described, claim 33 should be allowed. Claims 34-37 are dependent and should be allowed for at least the reason that they include the features of claim 34, amongst other reasons. Claims 38-41 include similar features and should be allowed for at least similar reasons.

Claim 42 includes the feature of means for formatting the call setup signaling message with an opaque information element, the opaque information element representing a link utilization value. At least this feature is not disclosed in any of the references of record for the reasons previously indicated. Thus, claim 42 should be allowed. Claims 43-47 are

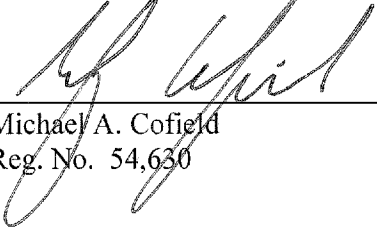
dependent and should be allowed for at least the reason that they include the features of claim 42, amongst other reasons.

***Conclusion***

For the foregoing reasons, reconsideration and allowance of all pending claims of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 224-2170 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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